

REMARKS

Claims 1-22 were examined, with claims 1, 12, 13 and 22 being independent claims. It is noted that the present response is accompanied by a Request for Continued Examination (RCE). In the present Response, all independent claims have been further amended, claim 14 has been canceled and claims 23-33 have been added to the application. Upon entry of this Amendment, claims 1-13 and 15-33 will be pending in the application.

Rejections under 35 U.S.C. §102(b)

Claims 1, 2, 11-14, 16, 20 and 22 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,004,111 to McCarthy. The Patent Office has taken the position that FIG. 1 of McCarthy shows an upwardly projecting fold.

Applicant respectfully traverses the rejection.

McCarthy includes layers 26, 36 and 40, with layer 40 being the uppermost layer. A first adhesive layer 34 is disposed between layers 26 and 36, and a second, partial adhesive layer 38 is disposed between layers 36 and 40. As a result of the partial adhesive layer 38 between layers 36 and 40, roughly half of the uppermost layer 40 remains un-adhered or loose. The un-adhered or loose portion of the uppermost layer 40 is referred to in McCarthy as tab portion 24. Tab portion 24 is not double folded.

The McCarthy reference fails to disclose the claimed subject matter, as now amended.

Rejection under 35 U.S.C. §103(a)

Claims 1-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,934,544 to Han et al. (Han) in view of McCarthy.

The Patent Office acknowledge that Han fails to disclose the fold being only in the uppermost layer, and is relying on the teachings of McCarthy for the disclosure that it is known to provide a grasping tab and fold from the uppermost layer alone (referring to element 24). The Patent Office has concluded that it would have been obvious to one of ordinary skill in the art at the time

the invention was made, to provide the composite film of Han with the fold and grasping tab being formed by the uppermost layer alone, in order to reduce the amount of material used by providing a single layer in the folding tab.

Applicant respectfully traverses the rejection.

As noted in the response to the first Office Action, Han discloses an innerseal 18 with a first sealing portion 20, a second sealing portion 22, and a fold-over portion 24 positioned between the first sealing portion 20 and the second sealing portion 22. Each portion 20, 22, 24 is formed from a single continuously extending sheet of common layered material. The composite foil 30 from which the innerseal 18 is formed includes a plurality of layers 32, 36, 40 with adhesive layers 34, 38 being provided between the layers as shown in FIG. 3. In Han, each layer of the composite foil 30 is included in the fold-over portion 24. Thus, Han fails to disclose a film composite for a container enclosure in which only the uppermost layer of the film composite comprises an upwardly projecting fold.

McCarthy fails to cure the deficiencies of Han. McCarthy also fails to disclose a film composite for a contained enclosure in which only the uppermost layer of the film composite comprises an upwardly projecting fold.

McCarthy is nothing more than the type of design discussed in the background of the present application. (See Substitute Specification at Page 3, Lines 4-27). As noted in the background, the loose tab portion 24 of uppermost layer 40 of McCarthy is disadvantageous because: 1) it involves a laborious laminating process to obtain the partial layer of adhesive 38; and 2) the loose end or tab portion 24 is susceptible to buckling, creasing and destruction as a result of the friction involved in rotating the screw closure. As a result, one of ordinary skill in the art attempting to reduce the amount of material used in Han would not be led to consider the teachings of McCarthy, other than perhaps for the teaching of using a partial layer of adhesive.

Reference is also now made to previous arguments submitted in the Response of June 8, 2004 relating to the combination of the Han and McCarthy references.

Although the Applicants do not agree with the Examiner's position either under 35 U.S.C. §102 or 35 U.S.C. §103, the Applicants have made further amendments in the claims which are believed to now clearly place all claims in condition for allowance. In this regard, the Applicants also make reference to the recent Final Action on page 4 at paragraph 6 including the Examiner's response to our previous arguments.

Reference is also now made to the present specification on page 8 for further descriptions of the manner in which the upwardly projecting fold is made. This is referred to as "laid double" or "two fold." Such an arrangement, particularly with the adhesive layer, is not taught by the prior art whether these patents be taken singly or in combination.

Claim 1 has been amended. Claim 9 has been rewritten into independent form. Independent claims 12, 13 and 22 have all been amended. Dependent claims 23-27 have been added to the application. Finally, a last group of method claims, namely claims 28-33 have been added to the application. All of these claims now contain language that is believed to clearly patentably distinguish over the prior art cited by the Examiner.

In claim 1 the upwardly projecting fold is now defined as comprising at least a double fold.

In claim 9 the upper most layer within the fold is now defined as provided with a portion of the adhesive layer in such a way that the portion of the adhesive layer also covers a surface area of the uppermost layer that forms the fold.

Claim 12 has been amended to recite that the upwardly projecting fold is a multiple fold having at least one bottom fold and a tip fold.

Claim 13 has been amended to define the engagement device as formed by three folds of said upper layer including two fold bottoms and a fold tip.

Claim 22 has been amended to define the engagement device as formed by multiple folds of said upper layer and a portion of said adhesive layer.

Dependent claims 23-27 depend from either claims 1, 12 or 22 and should be found allowable.

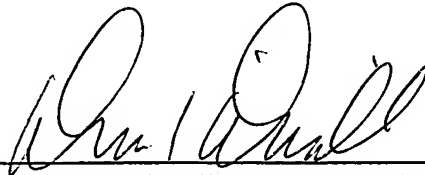
Claim 28 is an added method claim and claims 29-33 are dependent method claims. It is the applicants' position that the steps of claim 28 are clearly not taught by the references cited by the Examiner. No new matter is added in claim 28. The prior art does not teach the steps of forming, coating and forming as set forth in claim 28 particularly the coating of the upper layer with the adhesive layer while the upper layer is in an unfolded state and followed by forming the fold by bending the upper layer on and relative to the layer that is beneath it. Accordingly, claims 28-33 should be found in allowable condition.

CONCLUSION

For the reasons set forth hereinabove, it is respectfully submitted that all of the claims presently contained in the application are in condition for allowance, and reconsideration and entry of this amendment are respectfully requested. Since this application is under Final, should the Examiner not find this application in condition for allowance, it is respectfully requested that the Examiner telephone the undersigned attorney to discuss amendments which might, in the Examiner's view, place the application in condition for allowance.

If this response is not considered timely filed and a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check, please charge the deficiency to or credit any overpayment to Deposit Account No. 19-0120.

Respectfully submitted,
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